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18 **ROBB EVANS & ASSOCIATES LLC**

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

19 FEDERAL TRADE COMMISSION,

20 Plaintiff,

21 v.

22 HEALTH FORMULAS, LLC, a California
23 limited liability company, also doing business
24 as SIMPLE PURE NUTRITION, et al.,

25 Defendants.

26 Case No. 2:14-cv-01649-RFB-GWF

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**[PROPOSED] ORDER GRANTING
MOTION FOR: (1) ORDER APPROVING
AND AUTHORIZING PAYMENT OF
FEES AND EXPENSES OF THE
RECEIVER AND ITS PROFESSIONALS
AS TO THE MILLER RECEIVERSHIP
DEFENDANTS FOR THE PERIOD FROM
SEPTEMBER 1, 2015 THROUGH
FEBRUARY 29, 2016; (2) ORDER
APPROVING FINAL REPORT AND
ACCOUNTING AND WIND UP OF CSC
RECEIVERSHIP, APPROVING AND
AUTHORIZING PAYMENT OF FEES
AND EXPENSES OF THE RECEIVER
AND ITS PROFESSIONALS FROM
SEPTEMBER 1, 2015 THROUGH THE
CLOSING OF THE CSC RECEIVERSHIP
ESTATE IN CONNECTION
THEREWITH AND FOR RELATED
RELIEF; AND (3) ORDER GRANTING
RELIEF FROM NOTICE UNDER LOCAL
RULE 66-5**

1 The matter of the Motion for: (1) Order Approving and Authorizing Payment of Fees and
2 Expenses of the Receiver and Its Professionals as to the Miller Receivership Defendants from
3 September 1, 2015 through February 29, 2016; (2) Order Approving Final Report and Accounting
4 and Wind Up of CSC Receivership, Approving and Authorizing Payment of Fees and Expenses of
5 the Receiver and Its Professionals from September 1, 2015 Through the Closing of the CSC
6 Receivership Estate in Connection Therewith and for Related Relief; and (3) for Order Granting
7 Limited Notice Under Local Rule 66-5 ("Wind Up/Fee Motion") filed by Robb Evans &
8 Associates LLC ("Receiver"), initially appointed Temporary Receiver ("Receiver") in this action
9 pursuant to the Court's Order Granting Ex Parte Motion for Temporary Restraining Order (#5) and
10 Appointing Receiver (#9) ("Temporary Restraining Order") issued October 9, 2014 (Doc. No. 12)
11 and whose appointment was continued under the Stipulated Preliminary Injunction as to
12 Defendants Chapnick, Smukler & Chapnick, Inc., Brandon Chapnick and Keith Smukler
13 ("Stipulated Preliminary Injunction") issued November 17, 2014 (Doc. No. 61) and the Court's
14 Opinion and Order ("Miller Preliminary Injunction") issued May 6, 2015 (Doc. No. 149), came on
15 regularly for determination before the Honorable Richard F. Boulware, II, United States District
16 Judge presiding. The Court having reviewed the Wind Up/Fee Motion, and oppositions or
17 responses to the Motion, if any, and good cause appearing therefor,

18 IT IS ORDERED that:

19 1. The Wind Up/Fee Motion and all relief sought therein is hereby granted;
20 2. Without limiting the generality of the foregoing:
21 A. The receivership fees and expenses incurred for the six-month period from
22 September 1, 2015 through February 29, 2016 ("Expense Period") to the Receiver and its
23 professionals, including the fees of the Receiver, the Receiver's members, deputies, agents, staff
24 and professionals, and costs incurred during the Expense Period in the total sum of \$67,755.46 are
25 hereby approved and authorized to be paid, including the fees of the Receiver, its members,
26 deputies, agents and staff of \$29,894.50, the Receiver's expenses of \$1,113.89, and the Receiver's
27 legal fees of \$36,040.05 and costs of \$707.02 for the services of the Receiver's lead counsel
28 Dentons US LLP ("Dentons"). Of the total receivership fees and expenses incurred to the

1 Receiver and its professionals of \$67,755.46 during this Expense Period, the sum of \$7,005.74
 2 shall be allocated to and paid from funds transferred into the estate from accounts of defendant
 3 Chapnick, Smukler & Chapnick, Inc. ("CSC"), with the remainder of \$60,749.72 allocated to and
 4 paid from the remaining receivership estate funds other than those transferred into the estate from
 5 accounts of CSC;

6 B. With respect to the receivership estate concerning CSC, pursuant to Section IX of
 7 the Stipulated Order for Permanent Injunction and Monetary Judgment Regarding Defendants
 8 Chapnick, Smukler & Chapnick, Inc., Brandon Chapnick and Keith Smukler filed February 16,
 9 2016 (Doc. No. 195) ("CSC Final Judgment "):

10 (1) The Receiver Administrative Expenses for CSC and Fund Balance ("CSC
 11 Final Accounting"), a true and correct copy of which is attached as Exhibit 2 to the
 12 Declaration of Brick Kane filed in support of the Wind Up/Fee Motion, is hereby
 13 approved, and all payments made by the Receiver in connection with the administration of
 14 the receivership estate as it concerns CSC are hereby approved and confirmed;

15 (2) The Receiver is authorized to wind up the receivership estate created under
 16 the Stipulated Preliminary Injunction concerning CSC only;

17 (3) All actions and activities taken by or on behalf of the Receiver and all
 18 payments made by the Receiver in connection with the administration of the receivership
 19 estate as it concerns CSC are hereby approved and confirmed;

20 (4) All actual fees and expenses incurred by the Receiver and allocated to CSC
 21 for the period of September 1, 2015 through the closing of the CSC receivership, estimated
 22 to be in the total sum of \$18,560.74, including (1) the sum of \$7,005.74 proposed to be
 23 allocated and paid from assets of CSC for the Expense Period, as set forth in paragraph
 24 2.A. above, comprised of (i) fees of \$6,626.83 and costs of \$11.44 incurred by the
 25 Receiver for the Expense Period, and (ii) fees of \$360.40 and costs of \$7.07 for attorneys'
 26 fees and expenses for the services of the Receiver's counsel Dentons for the Expense
 27 Period; (2) estimated Receiver fees of \$1,510.00 and estimated costs of \$45.00 from March
 28 1, 2016 through the closing of the CSC receivership estate related to services for the wind

1 up and closing of the receivership estate as it concerns CSC; and (3) estimated Receiver
2 attorneys' fees of \$9,500.00 and legal expenses of \$500.00 from March 1, 2016 through the
3 closing of the CSC receivership estate related to services for the wind up and closing of the
4 receivership estate as it concerns CSC, as set forth in the CSC Final Accounting, Exhibit 2
5 to the Declaration of Brick Kane, are hereby approved and authorized to be paid;

6 (5) The Receiver is authorized to distribute the remaining assets of the
7 receivership estate of CSC held by the Receiver to plaintiff Federal Trade Commission
8 ("FTC") in accordance with the CSC Final Judgment, in the estimated amount of
9 \$58,191.52 upon the closing of the CSC receivership;

10 (6) The Receiver is authorized to return to CSC the business records of CSC in
11 the Receiver's possession or custody, if any such records exist, with thirty days of the
12 Receiver's closing of the CSC receivership;

13 (7) Effective upon completion of the administration of the CSC receivership
14 estate and distribution of the remaining CSC funds in the Receiver's possession and
15 custody (a) neither the Receiver nor any agent, employee, member, officer, independent
16 contractor, attorney or representative of the Receiver shall have any liability to any person
17 or entity for any action taken in connection with carrying out the Receiver's administration
18 of the CSC receivership estate, and the exercise of any powers, duties and responsibilities
19 in connection therewith, and (b) the Receiver, its agents, employees, members, officers,
20 independent contractors, attorneys and representatives are: (i) discharged; (ii) released
21 from all claims and liabilities arising out of and/or pertaining to the CSC receivership; and
22 (iii) relieved of all duties and responsibilities pertaining to the CSC receivership; and

23 C. Notice of the Wind Up/Fee Motion is deemed to be sufficient under Local Civil
24 Rule 66-5 based on the service of the notice of the Wind Up/Fee Motion and the Wind Up/Fee
25 Motion on all parties and service of the notice of the filing of the Wind Up/Fee Motion on all

1 known non-consumer creditors of the estate concurrent with the filing of the Wind Up/Fee Motion
2 with the Court.

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4 Dated: August 4, 2016.



5 RICHARD F. BOULWARE, II
6 United States District Court Judge
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CERTIFICATE OF SERVICE

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 601 South Figueroa Street, Suite 2500, Los Angeles, CA 90017-5704.

6 On April 15, 2016, I served the [PROPOSED] ORDER GRANTING MOTION FOR:
7 (1) ORDER APPROVING AND AUTHORIZING PAYMENT OF FEES AND EXPENSES
8 OF THE RECEIVER AND ITS PROFESSIONALS AS TO THE MILLER
9 RECEIVERSHIP DEFENDANTS FOR THE PERIOD FROM SEPTEMBER 1, 2015
10 THROUGH FEBRUARY 29, 2016; (2) ORDER APPROVING FINAL REPORT AND
11 ACCOUNTING AND WIND UP OF CSC RECEIVERSHIP, APPROVING AND
12 AUTHORIZING PAYMENT OF FEES AND EXPENSES OF THE RECEIVER AND ITS
13 PROFESSIONALS FROM SEPTEMBER 1, 2015 THROUGH THE CLOSING OF THE
14 CSC RECEIVERSHIP ESTATE IN CONNECTION THEREWITH AND FOR RELATED
15 RELIEF; AND (3) ORDER GRANTING RELIEF FROM NOTICE UNDER LOCAL
16 RULE 66-5 upon the parties and/or counsel listed and by the methods indicated on the attached
17 Service List.

18 I declare upon the penalty of perjury that the foregoing is true and correct, and that I am
19 employed in the office of a member of the bar of this Court at whose direction the service was
20 made. Executed on April 15, 2016, at Los Angeles, California.

/s/ Christina O'Meara

Christina O'Meara

1 **SERVICE LIST**

2 The following CM/ECF participants were served by electronic means on April 15, 2016:

- 3 • **Bryan C Altman**
4 bryan@altmanlawgroup.net
- 5 • **Gary Owen Caris**
6 gary.caris@dentons.com, chris.omeara@dentons.com, lesley.hawes@dentons.com
- 7 • **Melissa Dickey**
8 mdickey@ftc.gov
- 9 • **Danielle Estrada**
10 destrada@ftc.gov
- 11 • **Lesley Anne Hawes**
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16 shunterton@huntertonlaw.com
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- 21 • **Shlomo S. Sherman**
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28 The following non-CM/ECF participants were served by first-class mail, postage prepaid
on April 15, 2016:

29 **PARTY IN INTEREST**

30 Eve Lee, CPA
31 Board of Equalization
32 Legal Division-Special Operations
33 450 N. Street, MIC 55
34 Sacramento, CA 95814